

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

Adam Steele, Brittany Montrois, and	)	
Joseph Henchman, on behalf of	)	
themselves and all others similarly	)	
situated,	)	No.: 1:14-cv-01523-RCL
	)	
<i>Plaintiffs,</i>	)	
	)	
v.	)	
	)	
United States of America,	)	
	)	
<i>Defendant.</i>	)	

**DEFENDANT’S OPPOSITION TO MOTION FOR CLARIFICATION**

Plaintiffs’ purported Motion for Clarification (ECF No. 230) is an improper motion for reconsideration in disguise. Plaintiffs have also failed to comply with LCvR 7(m) and did not engage in the required meet-and-confer with the United States. *See also* ECF No. 191, 219, 229. Accordingly, the Court should strike the Plaintiffs’ motion. *See, e.g., Andrades v. Holder*, 286 F.R.D. 64, 65 n. 2 (D.D.C. 2012). Moreover, neither of the clarifications Plaintiffs request are necessary because the Court’s order is clear.

**ARGUMENT**

First, Plaintiffs request clarification as to whether costs associated with detecting and policing both misuse and nonuse of PTINs are permissibly included. ECF No. 230 at 2. The Court clearly stated in its order that the PTIN fee properly included “the direct and indirect costs of (1) investigating ghost preparers; (2) handling complaints regarding improper use of a PTIN, use of a compromised PTIN, or use of a PTIN

obtained through identity theft; and (3) composing the data to refer those specific types of complaints.” ECF No. 226 at 23, 28, and 36. Prior to that holding, the Court cited to both Plaintiffs’ and Defendant’s SUMF to define the investigation of “ghost preparers” to include both the misuse **and** nonuse of a PTIN. *Id.* at 4. Therefore, this holding is neither ambiguous nor vague, and no clarification is necessary. *See All. of Artists & Recording Cos., Inc. v. Gen. Motors Co.*, 306 F. Supp. 3d 413, 419 (D.D.C. 2016) (opinion is only vague when it is susceptible to differing interpretations regarding the factual situation).

Instead, Plaintiffs appear to seek reconsideration of the Court’s holding as to the ghost preparers. *E.g.*, ECF No. 230-1, Proposed Order. A motion for clarification is not a proper avenue for this relief. *See United States v. Phillip Morris USA, Inc.*, 793 F. Supp.2d 164, 168–69 (D.D.C. 2011) (“The general purpose of a motion for clarification is to explain or clarify something ambiguous or vague, not to alter or amend.”) (cited by *Fairholme Funds, Inc. v. Fed. Hous. Fin. Agency*, No. 1:13-cv-1053-RCL, 2022 WL 11110548, at \*5 (D.D.C. Oct. 19, 2022)).

Additionally, Plaintiffs seek clarification about whether registration costs for foreign preparers may be recovered through PTIN fees. ECF No. 230 at 2. As grounds for this request, Plaintiffs argue that foreign preparers are not entitled to the protections offered by the PTIN because foreign preparers do not have social security numbers. *Id.* This logic is flawed. Instead, the Court clearly stated that the benefit offered by the PTIN is the “protection of preparers’ identity,” without limiting that protection to preparers who have social security numbers. ECF No. 226 at 22. Simply because a

foreign preparer does not have a social security number does not mean they “received no benefit from the PTIN,” as Plaintiffs claim. Again, the Court’s holding is nether ambiguous nor vague, and no clarification is necessary as to the foreign preparers. *See All. of Artists & Recording Cos., Inc*, 306 F. Supp. 3d at 419. Rather, Plaintiffs’ motion for clarification is an improper request for reconsideration as to this holding.<sup>1</sup> *See Phillip Morris USA, Inc.*, 793 F. Supp.2d at 168–69.

### CONCLUSION

For the foregoing reasons, Defendant requests that Plaintiffs’ Motion for Reconsideration, which has been disguised as a Motion for Clarification, be denied.

Dated: March 31, 2023

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/s/ Emily K. Miller

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<sup>1</sup> The Court remanded this matter to the IRS to determine an appropriate refund. ECF No. 226. Consequently, the United States reserves the right to appeal on the denial of its offset claim and certain other parts of the Court’s decision until after remand and any further proceedings thereon.

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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing document was filed with the Court's ECF system on March 31, 2023, which system serves electronically all filed documents on the same day of filing to all counsel of record.

*/s/ Emily K. Miller* \_\_\_\_\_  
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